

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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UNITED STATES OF AMERICA,

Plaintiff,

v.

DAVID ALLAN GARRETSON,

Defendant.

Case No. 2:13-cr-029-APG-GWF

**ORDER ACCEPTING MAGISTRATE
JUDGE'S FINDINGS AND
RECOMMENDATION ON MOTION TO
DISMISS**

(Dkt. #50, 79)

On April 8, 2013, defendant David Garretson filed a Motion to Dismiss Count Six of the Indictment [Dkt #50]. On June 12, 2013, Magistrate Judge Foley entered his Findings and Recommendations [Dkt #79] recommending that Defendant Garretson's Motion to Dismiss be denied. Garretson filed an Objection [Dkt #84] to the Findings and Recommendations and the Government filed a Response [Dkt. #103]. Pursuant to Local Rule IB 3-2(b), the court has conducted a *de novo* review of the motion to dismiss, Findings and Recommendations, and related papers. The Court finds the Findings correct, well-reasoned and thorough, and adopts them in every respect. In addition, the Court notes that in *U.S. v. Sanchez*, 639 F.3d 1201, 1205 (9th Cir. 2011) -- the case primarily relied upon by Garretson -- the Ninth Circuit specifically noted that 18 U.S.C. §922(g)(8)(B) "does not include [18 U.S.C. §922(g)](8)(C)(ii)'s 'by its terms explicitly' language. Context suggests that (8)(C)(i) and (8)(C)(ii) require something more than what (8)(B) requires." This further supports Judge Foley's analysis and conclusions. Accordingly,

Dated: October 28, 2013.

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